

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #6	CCRB Case #: 202001927	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 08/19/2019 2:10 AM	Location of Incident: 171 Ludlow Street	Precinct: 07	18 Mo. SOL 2/19/2021	EO SOL 10/6/2021	
Date/Time CV Reported Fri, 03/06/2020 4:09 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 03/06/2020 4:09 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Rahul Dass	06304	958475	007 PCT
2. POF Alexandria Kirkland-Clarke	25400	963095	007 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jose Aracena	18880	951470	M E L D
2. POM Justin Belhouji	10570	964389	007 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Alexandria Kirkland-Clarke	Force: Police Officer Alexandria Kirkland-Clarke used physical force against § 87(2)(b)	
B.POF Alexandria Kirkland-Clarke	Abuse: Police Officer Alexandria Kirkland-Clarke threatened § 87(2)(b) with the use of force.	
C.POM Rahul Dass	Discourtesy: Police Officer Rahul Dass spoke discourteously to § 87(2)(b)	
D.POM Rahul Dass	Off. Language: Police Officer Rahul Dass made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

Case Summary

On March 6, 2020, § 87(2)(b) filed this complaint with the CCRB via the online website.

On August 19, 2019, at 2:10 a.m., § 87(2)(b) was at the rooftop bar of the Purple Hotel Bar, located at 171 Ludlow Street in Manhattan when she got into a physical altercation with a bouncer. Following a 911 call of the assault, PO Rahul Dass, PO Alexandria Kirkland-Clarke, and additional officers of the 7th Precinct responded to the bar and arrested § 87(2)(b). As PO Kirkland-Clarke was placing § 87(2)(b) into the police car she pushed § 87(2)(b) into a lying position on the back seat and knelt on her thighs (**Allegation A – Force:** § 87(2)(g)). PO Kirkland-Clarke raised her closed fist over § 87(2)(b) but did not strike her (**Allegation B – Abuse of Authority:** § 87(2)(g)). While driving back to the stationhouse § 87(2)(b) spit on PO Dass, after which PO Dass called § 87(2)(b) a “disgusting fucking bitch” (**Allegation C – Discourtesy:** § 87(2)(g)) (**Allegation D – Offensive Language:** § 87(2)(g)).

§ 87(2)(b) was charged with criminal trespass and assault with intent to cause physically injury. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

BWC videos from officers, including from PO Kirkland-Clarke and PO Dass were received and can be found in IAs #64-70. Summaries of the footage can be found in IA 77 (**BR 02**).

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Alexandria Kirkland-Clarke used physical force against § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Alexandria Kirkland-Clarke threatened § 87(2)(b) with the use of force.

PO Kirkland-Clarke’s BWC footage, starting at the 02:00 mark of the timestamp visible at the bottom of the screen, shows that PO Dass placed § 87(2)(b) in the back of the police car in an upright position and closed the door. PO Kirkland-Clarke then entered the backseat with § 87(2)(b) seat-belted her, and remained in the backseat seated next to § 87(2)(b) while PO Dass drove to the stationhouse. The BWC does not show § 87(2)(b) lying down on the backseat, nor does it show PO Kirkland-Clarke kneeling on § 87(2)(b) or raising her fist over § 87(2)(b) head. However, at 4:08, while PO Dass is driving to the stationhouse, § 87(2)(b) spits at PO Dass after which PO Kirkland-Clarke moves toward § 87(2)(b). The video is dark as there is no light inside of the vehicle. The video goes dark. PO Kirkland-Clarke asks § 87(2)(b) “Why are you spitting?” At 04:30 PO Dass asks PO Kirkland-Clarke, “Everything okay back there?” PO Kirkland-Clarke responds, “Mhmm, I’m just trying to turn her face” The video remains dark until 06:30, when the officers arrive at the stationhouse (**BR 05**).

As per § 87(2)(b) testimony, after being removed in handcuffs she was placed in the patrol vehicle. § 87(2)(b) had a few drinks but was not intoxicated. PO Dass got into the driver’s seat and PO Kirkland-Clarke opened the rear door for § 87(2)(b). § 87(2)(b) sat down on her own and slid over across the rear seat as she thought PO Kirkland-Clarke was going to sit next to her. PO Kirkland-Clarke entered the rear seat through the same door and pushed § 87(2)(b) down so she was laying on the rear seat on her back on top of her handcuffs. PO Kirkland-Clarke placed her knees on the top of § 87(2)(b) thighs and raised her fist above her head as if she was going to punch § 87(2)(b). § 87(2)(b) turned her head to the side to avoid the strike. PO Kirkland-Clarke removed her knees off of § 87(2)(b) and never struck her. PO Kirkland-Clarke exited the car and got into the front seat (**BR 04**).

PO Kirkland-Clarke denied pushing § 87(2)(b) down onto the rear seat in a lying down position, denied kneeling on top of § 87(2)(b) and denied raising her fist over § 87(2)(b). After § 87(2)(b) spit on PO Dass, PO Kirkland-Clarke pushed § 87(2)(b) face toward the passenger window to prevent her from further spitting on the officers (BR 06). PO Dass' statement was consistent with PO Kirkland-Clarke's (BR 07).

The BWC shows that PO Dass placed § 87(2)(b) into the back of the police car and that the allegations did not occur at the time that § 87(2)(b) alleged. As § 87(2)(b) was intoxicated during the incident, the investigation could not rule out that the timing of when § 87(2)(b) alleged the force occurred cannot be relied upon. The BWC shows that while in route to the stationhouse, shortly after § 87(2)(b) spat at PO Dass, there was a physical encounter between PO Kirkland-Clarke and § 87(2)(b). While PO Kirkland-Clarke admitted to raising her hand, she testified that this was done solely to push § 87(2)(b) face towards the window to prevent further spitting. She denied kneeling on § 87(2)(b) or raising a fist to § 87(2)(b) head. As the video is dark, the investigation was unable to make a conclusive finding as to what occurred in the vehicle at this time.

§ 87(2)(g)

Allegation C: Police Officer Rahul Dass spoke discourteously to § 87(2)(b)
Allegation D: Police Officer Rahul Dass made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

§ 87(2)(b) did not allege the use of discourteous or offensive language; however, the following was captured on PO Dass' BWC footage: At the 04:20 mark of the timestamp visible at the bottom of the screen, § 87(2)(b) who was seated in the rear seat of the police car, spit on PO Dass while he was driving, after which PO Dass stated in a low tone of voice, "Disgusting fucking bitch." § 87(2)(b) did not respond to the statement (BR 02). At the 4:30 minute mark of PO Kirkland-Clarke's BWC, this remark was also audible. At the time, PO Kirkland-Clarke sat next to § 87(2)(b) in the back of the vehicle (BR 05).

PO Dass initially testified that he called § 87(2)(b) a "disgusting individual" after she spit on him and denied making the statement "disgusting fucking bitch;" however, after reviewing his BWC footage, he identified himself as the officer who made the statement in the video. PO Dass made the statement "disgusting fucking bitch" as a reaction to being spit on, as he was angry and upset (BR 07).

NYPD Patrol Guide Procedure 203-09 states that police officers must be courteous and respectful when dealing with civilians (BR 11). Disciplinary Case No. 2017-17005 states that while officers are allowed to use discourteous language during stressful situations, officers are only permitted to do so when scenes are so chaotic that the duty of courteousness and professional behavior should be overridden by the immediate need to maintain order (BR 12). Officers are prohibited from using discourteous or disrespectful remarks regarding another person's gender. NYPD Patrol Guide, Procedure 203-10 (BR 13).

§ 87(2)(g)

Given the conversation happened inside of the police car absent the presence of a hostile crowd, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 08**).
- PO Kirkland-Clarke has been a member-of-service for three years and has been a subject in one additional CCRB complaint and two allegations, none of which were substantiated. § 87(2)(b)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On December 28, 2020, an inquiry was filed with the New York City Comptroller's Office to locate a Notice of Claim for § 87(2)(b). The results are pending and will be added to the case file upon receipt (**Board Review 09**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 06

Investigator: Inv. Thomas Juliano Inv. Thomas Juliano 1/11/2021
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 1/12/2021
Signature Print Title & Name Date